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FILED

Date 6/5/15 By

Susan Saylor

9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2015-60

13 **RUSSELL L. BOWMAN**
14 **152 Danner Place**
El Cajon, CA 92020

A C C U S A T I O N

15 **Field Representative License No. FR 46154**

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the
21 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs.

23 2. On May 5, 2000, the Structural Pest Control Board issued Applicator License Number
24 RA 14763 Russell L. Bowman (Respondent). The Applicator's License was cancelled on
25 November 15, 2000, due to issuance of a Branch 2 Field Representative's License.

26 3. On or about November 15, 2000, the Structural Pest Control Board issued Field
27 Representative License Number FR 32888 to Russell L. Bowman (Respondent). The Field
28 Represenative License was cancelled on June 30, 2009.

4 On or about November 10, 2010, the Structural Pest Control Board issued Field Representative License Number FR 46154 to Russell L. Bowman (Respondent). The Field Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

JURISDICTION

5 This Accusation is brought before the Structural Pest Control Board (Board),
Department of Consumer Affairs, under the authority of the following laws. All section references
are to the Business and Professions Code unless otherwise indicated.

6. Section 8620 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

7. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

STATUTORY PROVISIONS

8. Section 498 of the Code states:

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

9. Section 8637 of the Code states: “Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.”

10. Section 8641 of the Code provides that failure to comply with the provisions of the Business and Professions Code, or any rule or regulation adopted by the Board, is a ground for disciplinary action.

11. Section 8593 of the Code provides, in pertinent part, that the Board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit

1 proof satisfactory to the board that he or she has informed himself or herself of developments in
2 the field of pest control either by completion of courses of continuing education in pest control
3 approved by the board or equivalent activity approved by the board.

4 REGULATORY PROVISIONS

5 12. California Code of Regulations, title 16, section 1950 states:

6 (a) Except as provided in section 1951¹, every licensee is required, as a condition
7 to renewal of a license, to certify that he or she has completed the continuing education
8 requirements set forth in this article. A licensee who cannot verify completion of
9 continuing education by producing certificates of activity completion, whenever requested
10 to do so by the Board, may be subject to disciplinary action under section 8641 of the
11 code.

12 (b) Each licensee is required to complete a certain number of continuing education
13 hours during the three year renewal period. The number of hours required depends on the
14 number of branches of pest control in which licenses are held. The subject matter covered
15 by each activity shall be designated as "technical" or "general" by the Board when the
16 activity is approved. Hour values shall be assigned by the Board to each approved
17 educational activity, in accordance with the provisions of section 1950.5.

18

19 (d) Field representatives licensed in one branch of pest control shall have completed
20 16 continuing education hours, field representatives licensed in two branches of pest
21 control shall have completed 20 continuing education hours, field representatives licensed
22 in three branches of pest control shall have completed 24 continuing education hours
23 during each three year renewal period. In each case, a minimum of four continuing
24 education hours in a technical subject directly related to each branch of pest control held
25 by the licensee must be completed for each branch of pest control licensed, a minimum of
26 two hours in Integrated Pest Management must be completed by Branch 2 and/or 3
27 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be
28 completed from Board approved courses on the Structural Pest Control Act, the Rules
and Regulations, or structural pest control related agencies' rules and regulations.

. . . .

21 COSTS

22 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

25 ¹ 16 C.C.R. § 1951 states: "In lieu of continuing education, a licensee may qualify for
26 renewal by taking and passing an examination designed by the Board to cover developments in the
27 field of pest control. Licensees who choose this method of qualifying for renewal may take this
28 examination only once, and must take the examination no earlier than one year prior to their
license expiration date. A score of 70% or higher shall be considered a passing grade on this
examination."

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
3 included in a stipulated settlement.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Securing a License by Fraud, Deceit, or Knowing Misrepresentation of a Material Fact)**

6 14. Respondent has subjected his license to disciplinary action under sections 498 and
7 8637 of the Code in that he secured his Field Representative License by fraud, deceit, or knowing
8 misrepresentation of a material fact. The circumstances are as follows:

9 15. On or about June 21, 2013, Respondent signed his "License Renewal Application –
10 Field Representative" for Field Representative License number FR 46154. Declaring under
11 penalty of perjury under the laws of the State of California that his information was true and
12 correct, Respondent stated that he completed 16 hours of continuing education required for the
13 renewal of his license. Respondent's Field Representative License was subsequently renewed for a
14 period of three years.

15 16. In a letter dated January 3, 2014, mailed to Respondent's address of record, the Board
16 informed Respondent that he had been selected for a continuing education audit. Respondent was
17 directed to provide the certificates of course completion for the 16 hours of continuing education
18 claimed on his license renewal application for the renewal period of July 1, 2010 through June 30,
19 2013. Respondent was told that the requested information was due 14 days from the date of the
20 letter, and that failure to comply would subject him to disciplinary action. After Respondent failed
21 to respond to the letter, a second letter dated March 21, 2014, was mailed to Respondent.
22 Respondent failed to comply.

23 17. In a third letter dated August 1, 2014, sent to Respondent via First Class Mail, to his
24 address of record and to his last known place of employment, he was directed to provide the
25 requested information within 14 days. Respondent failed to comply.

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1 18. In a fourth letter dated September 3, 2014, sent to Respondent via First Class Mail,
2 Respondent was warned that as a result of his ongoing non-compliance with the continuing
3 education audit, disciplinary action would be taken against his license. Respondent failed to
4 comply.

5 19. In a fifth and final letter dated September 25, 2014, sent to Respondent's address of
6 record via First Class and Certified Mail, Respondent was warned that as a result of his ongoing
7 non-compliance with the continuing education audit, disciplinary action would be taken against his
8 license. The Domestic Return Receipt was signed September 29, 2014. Respondent failed to
9 comply.

10 20. On October 1, 2014, the Board left Respondent a voicemail reminding him that the
11 Board needed to obtain the certificates or a signed letter of explanation. Respondent failed to call
12 back and comply.

13 21. On October 21, 2014, the Board left Respondent another voicemail with a timeline of
14 events and indicated that the Board needed to receive an explanation from him. Respondent called
15 back and stated "he had no hours" and would send in a letter stating this. Respondent failed to
16 comply again.

17 22. On November 5, 2014, the Board left Respondent one last voicemail stating he would
18 be going to a Board hearing if he did not comply. He did not comply. Respondent failed to call
19 back and comply.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply With the Provisions of the Structural Pest Control Act)**

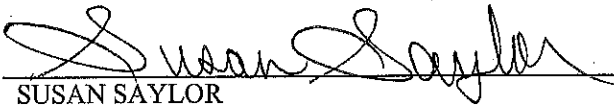
22 23. Respondent has subjected his license to disciplinary action under section 8641 of the
23 Code, and California Code of Regulations, title 16, section 1950, in that he failed to comply with
24 the provisions of the Structural Pest Control Act, as described in paragraphs 14-22, above.
25 Respondent's conduct violated Business and Professions Code section 8593, which required
26 Respondent, as a condition to the renewal of his Field Representative License, to submit proof that
27 he complete a minimum of 16 hours of continuing education in pest control approved by the Board
28 or equivalent activity approved by the Board within the three-year renewal period.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

1. Revoking or suspending Field Representative License Number FR 46154, issued to Russell L. Bowman.
2. Ordering Russell L. Bowman to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/5/15



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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